THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 10038 of 2001

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DATED: 05-08-2005

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Smt.Shakeela.

… Petitioner.

AND

Municipal Corporation,

Rep., by its Commisioner,

Vijayawada.

… Respondent

ORDER:

This Writ petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaring the action of the respondent and his subordinates, in proposing to demolish any of the structures of the building of the petitioner, situated at
D.No.32-26-7, Ward No.28, Machavaram, Vijayawada, as illegal, arbitrary and unjust.

2. It is stated that the petitioner is the owner of the land admeasuring 150 Sq.yards situated in D.No.32-26-7, Ward No.28, Machavaram, Vijayawada. After obtaining permission from the respondent, vide Lr.No.G6. B.A.No.2085/2000, dated 01-03-2001, the petitioner started constructions**.** During the course of construction, after

noticing certain deviations committed by the petitioner, which are contrary to the sanction plan, she was prosecuted by way of filing S.T.C.No.278 of 2001 on the file of the Magistrate (Mobile), Vijayawada and a fine of Rs.5000/- (rupees five thousand only) was imposed on 30-04-2001. Though the petitioner paid the fine amount on the same day and made an application on 05-05-2001 to regularize the construction of 3rd floor, the subordinates of the respondent inspected the premises and threatened that they will demolish the same. Aggrieved thereby, the petitioner approached this Court by filing the present Writ Petition.

3. The respondent filed its counter affidavit stating that the petitioner has approached this Court with unclean hands. The alleged application, dated 05-05-2001, to regularize the unauthorized construction was not submitted to the respondent. On the other hand, the petitioner, despite submitting her explanation to the notice, dated 01-05-2001, issued by the respondent under Sections 42(1) and 43(1) of the Andhra Pradesh Urban Development Authority Act, 1975 and under Section 452 of the Hyderabad Municipal Corporation Act, 1955, approached this Court and obtained interim orders on 22-05-2001 in W.P.M.P.No.12587 of 2001 in W.P.No.10038 of 2001. The petitioner has not submitted any application on 05-05-2001.

4. Heard both sides.

5. I have perused the entire material available on record.

6. Considering the facts and circumstances of the case, I deem it appropriate to dispose of the Writ Petition with a direction to the petitioner to submit her explanation to the impugned notice, dated 01-05-2001, issued by the respondent for its consideration and pass appropriate orders after hearing the petitioner in accordance with law within a period of two weeks from the date of receipt of a copy of this order. On filing of such an application by the petitioner, the respondent is directed to pass appropriate orders within a period of twelve weeks thereafter. Till such time, the respondent is directed not to take any action in pursuance of the above said notice.

7. The Writ Petition is accordingly disposed of.

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(DHARMA RAO ELIPE,J)

5th August, 2005.

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